

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

DARWIN MOORE,

Defendant.

ORDER
07-CR-025-C-01

Presently pending before the Court in the above entitled matter is defendant's emergency motion for bail pending appeal. At defendant's sentencing hearing on January 4, 2008, the Honorable Judge Barbara B. Crabb imposed a sentence of 10 months imprisonment which was stayed until February 29, 2008.

18 U.S.C. § 3143(b) applies. The Court shall order that a defendant who has been found guilty of an offense and sentenced to a term of imprisonment be detained unless the Court finds by clear and convincing evidence that said defendant is not a danger to the community or a flight risk.

The Court is unable to make this finding by clear and convincing evidence as it concerns defendant Darwin Moore. He presents a danger to the community, as noted by Judge Crabb at sentencing, in that defendant served a prior state sentence for dealing illegally in gambling devices which is similar to the conduct of which he was convicted. Additionally, defendant recruited his co-defendant's sister and her daughter-in-law to help execute the scheme.

Pursuant to 18 U.S.C. § 3145 the Court cannot find exceptional circumstances for its failure to detain the defendant. His grave concerns for the welfare of his elderly parents are those shared by many defendants, but do not rise to the level of exceptional circumstances.

ORDER

IT IS ORDERED that defendant's emergency motion for bail pending appeal is DENIED.

Entered this 16th day of January, 2008.

BY THE COURT:

/s/

JOHN C. SHABAZ
District Judge for
The Honorable Judge Barbara B. Crabb